

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

08 - 20258 CRUMANO
Case No.

18 U.S.C. § 1347

18 U.S.C. § 2

18 U.S.C. § 982

UNITED STATES OF AMERICA

vs.

REMBERTO SARMIENTO PEREZ,

Defendant.

INDICTMENT

The Grand Jury charges that:

GENERAL ALLEGATIONS

At all times relevant to this Indictment:

The Medicare Program

1. The Medicare Program ("Medicare") is a federally funded program that provides free or below-cost health care benefits to certain individuals, primarily the elderly, blind, and disabled. The benefits available under Medicare are governed by federal statutes and regulations. The United States Department of Health and Human Services ("HHS"), through its agency, the Centers for Medicare and Medicaid Services ("CMS"), oversees and administers Medicare. Individuals who receive benefits under Medicare are commonly referred to as Medicare "beneficiaries."

2. Medicare is a "health care benefit program," as defined by Title 18, United States Code, Section 24(b).

3. Part B of the Medicare Program is a medical insurance program that covers, among other things, certain physician and outpatient services, and other health care benefits, items, and services, including durable medical equipment (“DME”), that are medically necessary and ordered by licensed medical doctors or other qualified health care providers. DME is equipment that is designed for a specific medical purpose and for repeated use, such as wound care supplies, knee braces, prosthetic limbs, back braces, wrist braces, and wheelchairs.

4. For Florida beneficiaries, Medicare Part B’s insurance concerning DME and related health care benefits, items, and services, was administrated by Palmetto Government Benefits Administrators (“Palmetto GBA”), pursuant to a contract with HHS. Among Palmetto’s GBA’s responsibilities, it received, adjudicated, and paid the claims of authorized DME suppliers that were seeking reimbursement for the cost of DME and other health care benefits, items, or services supplied or provided to Medicare beneficiaries.

Medicare Billing and Payment Procedures

5. A Part B provider that sought to participate in Medicare Part B and bill Medicare for the cost of DME related benefits, items, and services, was required to apply for and receive a provider number. The provider number allowed a Part B provider to submit bills, known as “claims,” to Medicare to obtain reimbursement for the cost of outpatient related health care benefits, items, and services that a DME company supplied or provided to beneficiaries.

6. To receive payment from Medicare, a DME company, using its provider number, would submit a health insurance claim form, known as a CMS-1500. Medicare permitted a DME company to submit a CMS-1500 electronically or by way of a paper claim form. Each claim form required certain important information, including: (a) the Medicare beneficiary’s name and

identification number; (b) the identification number of the doctor or other qualified health care provider who ordered the health care benefit, item, or service that was the subject of the claim; (c) the health care benefit, item, or service that was provided or supplied to the beneficiary; (d) the billing codes for the benefit, item, or service; and (e) the date upon which the benefit, item, or service was provided or supplied to the beneficiary.

7. Medicare, through Palmetto GBA, generally would pay a substantial portion of the cost of the clinical related health care benefits, items, and services that were medically necessary and ordered by licensed doctors or other qualified health care providers.

8. Payments under Medicare Part B were often made directly to the DME company rather than to the patient/beneficiary. For this to occur, the beneficiary would assign the right of payment to the Part B provider or other health care providers. Once such an assignment took place, the DME company would assume the responsibility for submitting claims to, and receiving payments from, Medicare.

The Cleveland Clinic

9. The Cleveland Clinic was a medical clinic with locations in Weston and Naples, Florida, and elsewhere. As such, the Cleveland Clinic was a health care provider. On or about May 1, 2006, Health Management Associates ("HMA") purchased the Cleveland Clinic in Naples, Florida, and continued to run the location as a medical clinic. HMA was a health care provider.

10. A Cleveland Clinic employee who was a front desk office coordinator at the Cleveland Clinic in Weston, Florida, fraudulently obtained Medicare information and other identifying information pertaining to 1500 Medicare patients of HMA (the former Cleveland Clinic in Naples, Florida). The former Cleveland Clinic employee received \$5 to \$10 for each patient's

Medicare number and other identifying information. The fraudulently obtained Medicare numbers and other identifying information were utilized by numerous medical providers in the Southern District of Florida, including in Miami Dade-County, to fraudulently bill Medicare for medical services not rendered and medical equipment not supplied.

APR MEDICAL EQUIPMENT, INC.

11. APR MEDICAL EQUIPMENT, INC., was a Florida corporation, incorporated on or about October 7, 2004, that purportedly did business in Miami-Dade County. SUPER MEDICAL SUPPLY INC., was a company purportedly providing DME related items, benefits, and services to Medicare beneficiaries. APR MEDICAL EQUIPMENT, INC., was located at 1350 E. 4th Avenue, Hialeah, Florida 33130.

12. Defendant **REMBERTO SARMIENTO PEREZ** was the owner of record of APR MEDICAL EQUIPMENT, INC., beginning on or about December 21, 2005 and continuing through in or around October 2006. **SARMIENTO PEREZ** opened up and maintained a corporate bank account for APR MEDICAL EQUIPMENT, INC., at Wachovia Bank.

13. On or about October 1, 2005, APR MEDICAL EQUIPMENT, INC. obtained Medicare Services Provider Number 5511970001, authorizing the company to submit reimbursement claims to Medicare for DME related items, benefits, and services. APR MEDICAL EQUIPMENT, INC. submitted claims to Medicare using the Medicare numbers and other identifying information fraudulently obtained from HMA (the former Cleveland Clinic in Naples, Florida), resulting in APR MEDICAL EQUIPMENT, INC. submitting claims to Medicare in the amount of \$313,684. As a result of those claims, Medicare paid APR MEDICAL EQUIPMENT, INC. \$12,043.

COUNTS 1-10
Health Care Fraud
(18 U.S.C. §§ 1347 and 2)

1. Paragraphs 1 through 13 of the General Allegations section of this Indictment are realleged and incorporated by reference as though fully set forth herein.

2. From in or around May 2006, and continuing through in or around October 2006, in Miami-Dade County, in the Southern District of Florida, and elsewhere, the defendant,

REMBERTO SARMIENTO PEREZ,

in connection with the delivery of and payment for health care benefits and services, did knowingly and willfully execute, and attempt to execute, a scheme and artifice to defraud Medicare, a health care benefit program affecting commerce, as defined by Title 18, United States Code, Section 24(b), and to obtain, by means of materially false and fraudulent pretenses, representations, and promises, money and property owned by, and under the custody and control of, Medicare, that is, the defendant, through APR MEDICAL EQUIPMENT, INC., submitted false and fraudulent claims to Medicare, seeking reimbursement for the cost of various DME related items, benefits, and services.

Purpose of the Scheme and Artifice

3. It was the purpose of the scheme and artifice for the defendant to unlawfully enrich himself and others by, among other things: (a) fraudulently obtaining Medicare patient information; (b) submitting or causing the submission of false and fraudulent claims to Medicare; (c) concealing the submission of false and fraudulent Medicare claims; and (d) diverting fraud proceeds for the personal use and benefit of himself and others.

Manner and Means of the Scheme and Artifice

The manner and means by which the defendant sought to accomplish the purpose of the scheme and artifice included, among others, the following:

4. **REMBERTO SARMIENTO PEREZ** fraudulently obtained the names, the Medicare numbers and other patient identifying information of Medicare beneficiaries who were patients of HMA (the former Cleveland Clinic in Naples, Florida).

5. **REMBERTO SARMIENTO PEREZ** submitted and caused to be submitted by APR MEDICAL EQUIPMENT, INC., using the fraudulently obtained patient information, claims to Medicare for DME supplies, such claims falsely and fraudulently representing that these supplies were medically necessary and had been provided to the Medicare beneficiaries.

6. As a result of the submission of such false and fraudulent claims, **REMBERTO SARMIENTO PEREZ** caused Medicare to make payments to APR MEDICAL EQUIPMENT, INC., that were deposited into APR MEDICAL EQUIPMENT, INC.'s corporate bank account.

7. **REMBERTO SARMIENTO PEREZ** transferred and disbursed, and caused the transfer and disbursement of, monies from APR MEDICAL EQUIPMENT, INC.'s corporate bank account to himself and others.

Acts in Execution or Attempted Execution of the Scheme and Artifice

8. On or about the dates set forth as to each count below, in Miami-Dade County, in the Southern District of Florida, and elsewhere, **REMBERTO SARMIENTO PEREZ**, in connection with the delivery of and payment for health care benefits and services, did knowingly and willfully execute, and attempt to execute, the above-described scheme and artifice to defraud a health care benefit program affecting commerce, that is Medicare, and to obtain, by means of materially false

and fraudulent pretenses, representations, and promises, money and property owned by, and under the custody and control of said health care benefit program:

Count	Medicare Beneficiary	Approx. Date of Service	Approx. Date of Submission of Claim	Medicare Claim Number	Item Claimed; Approx. Amount Claimed
1	R.B.	5/11/06	7/13/06	106194701351000	Hydrocolld. drug filler paste (A6240); \$444
2	T.N.	5/12/06	7/13/06	106194701385001	EF spec.metobolic noninherit. (B4154); \$891
3	D.T.	5/18/06	7/20/06	10620171002000	Humidifier heated used with PAP (E0562); \$361
4	S.R.	5/24/06	7/20/06	106201712062000	Uvl. md.. cabinet sys. 6 ft. (E0694); \$4,786
5	B.A.	5/24/06	7/26/06	106207776753000	Humidifier heated used with PAP (E0562); \$361
6	G.M.	5/30/06	7/26/06	106207776906000	Neg. pressure wound ther. drsg.set (A6550); \$1,480
7	C.L.	6/22/06	7/26/06	106207776825000	Hydrocolld. drug filler paste (A6240); \$440
8	J.V.	6/25/06	7/26/06	106207776915000	powered pressure reduction air mattress (E0277); \$730

Count	Medicare Beneficiary	Approx. Date of Service	Approx. Date of Submission of Claim	Medicare Claim Number	Item Claimed; Approx. Amount Claimed
9	D.K.	7/15/06	7/20/06	106201711984000	Neg. pressure wound ther.drsg. set (A6550); \$1,480.50
10	G.V.	7/26/06	7/26/06	106207776928000	Powered Pressure Reduction Air Mattress (E0277); \$2,059.75

In violation of Title 18, United States Code, Sections 1347 and 2.

FORFEITURE
(18 U.S.C. § 982)

1. The allegations contained in Counts 1-10 of this Indictment are realleged and incorporated by reference as though fully set forth herein for the purpose of alleging forfeiture to the United States of America of certain property in which the defendant, **REMBERTO SARMIENTO PEREZ**, has an interest pursuant to the provisions of Title 18, United States Code, Section 982(a)(1) and 982(a)(7).

2. Pursuant to Title 18, United States Code, Section 982(a)(7) and 982(a)(1), upon conviction of **REMBERTO SARMIENTO PEREZ** for any of the offenses charged in this Indictment, the defendant shall forfeit to the United States any property, real or personal, that constitutes or is derived, directly or indirectly, from gross proceeds traceable to the commission of the offense or any property real or personal which was involved in the offense or any property traceable to such property. Such forfeiture shall include, but not be limited to a money judgment in the amount of \$12,043, which represents the gross proceeds of the fraud.

3. If the property described above as being subject to forfeiture, as a result of any act or omission of **REMBERTO SARMIENTO PEREZ**,

- (a) cannot be located upon the exercise of due diligence;
- (b) has been transferred or sold to or deposited with a third person;
- (c) has been placed beyond the jurisdiction of the Court;
- (d) has been substantially diminished in value; or
- (e) has been commingled with other property which cannot be subdivided without difficulty;

it is the intent of the United States, pursuant to Title 21, United States Code, Section 853(p), as made applicable through Title 18, United States Code, Section 982(b)(1), to seek forfeiture of any other property of **REMBERTO SARMIENTO PEREZ** up to the value of the above forfeitable property.

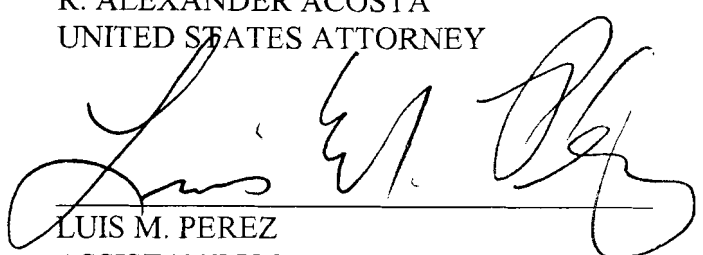
All pursuant to Title 18, United States Code, Sections 982(a)(1) and (a)(7) and the procedures set forth at Title 21, United States Code, Section 853, as made applicable through Title 18, United States Code, Section 982(b)(1).

A TRUE BILL

FOREPERSON



R. ALEXANDER ACOSTA
UNITED STATES ATTORNEY



LUIS M. PEREZ
ASSISTANT U.S. ATTORNEY